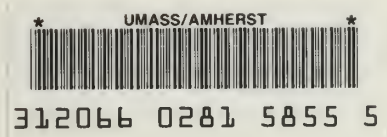


MASS. J1.2: ~~R29/5~~ 2pp.

~~XXXX~~



COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPREME JUDICIAL COURT
NO. SJC-0E-085

IN THE MATTER OF THE BOSTON MUNICIPAL COURT
DEPARTMENT OF THE TRIAL COURT

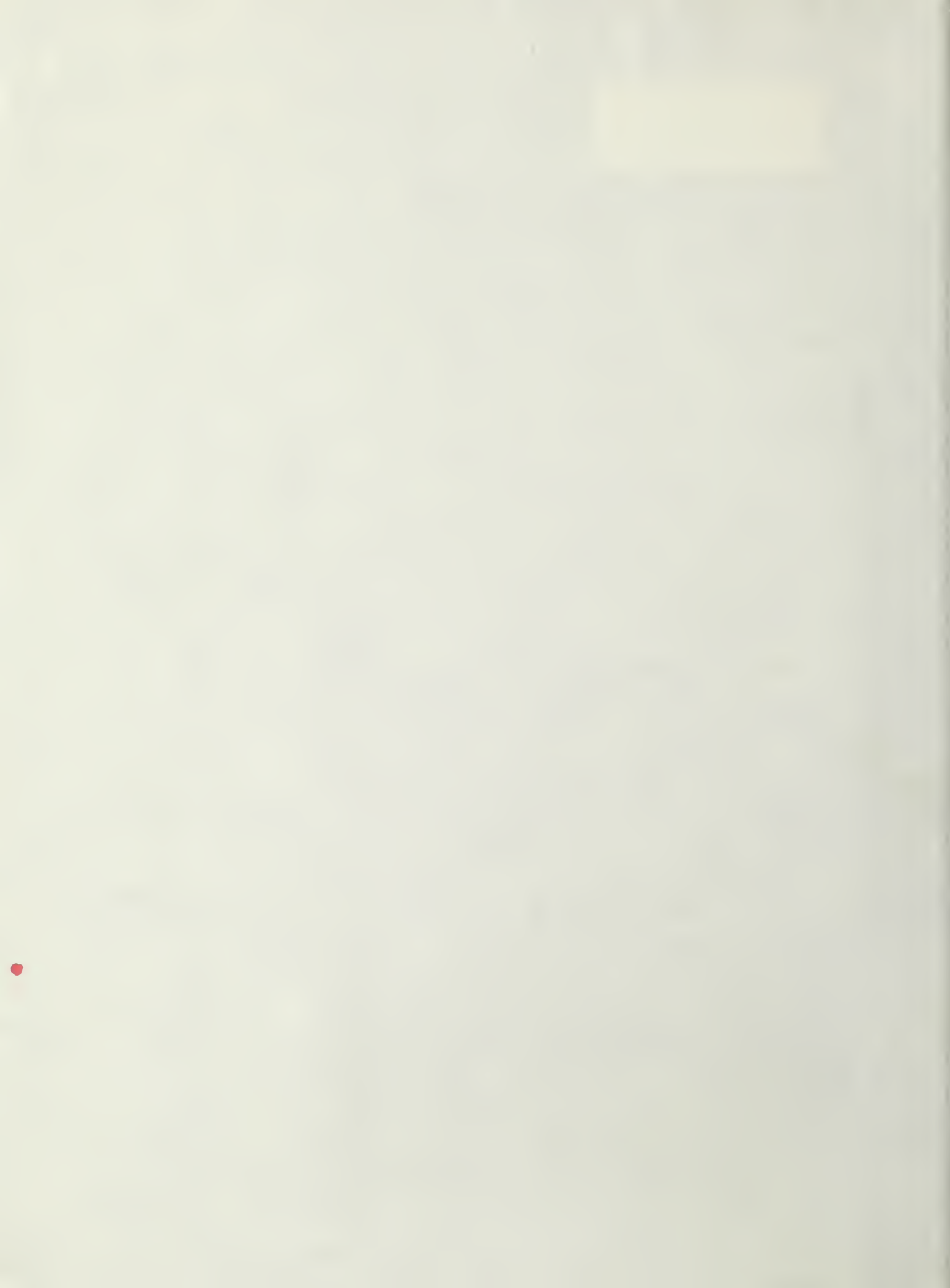
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CLERK OF THE COURT
BOSTON

Appendix

Dean Paul R. Sugarman
Suffolk University Law School
41 Temple Street
Boston, MA 02114

February 4, 1991

912/333



APPENDIX

A - ORDER

B - GLOBE SERIES

C - RESUME OF DAVID PFEIFFER

D - COMMISSIONER OF PROBATION STATISTICS

E - TRANSCRIPT: Commonwealth vs. Brian McDonough
November 29, 1989

F - TRANSCRIPT: Commonwealth vs. George V. Kenneally, III
February 16, 1988

G - TRANSCRIPT: Commonwealth vs. George Kenneally, III
March 1, 1988

H - TRANSCRIPT: Commonwealth vs. Alfred Weber
December 20, 1988

I - TRANSCRIPT: Commonwealth vs. Alfred Weber
May 18, 1990

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

Supreme Judicial Court

IN THE MATTER OF THE BOSTON MUNICIPAL COURT
DEPARTMENT OF THE TRIAL COURT

ORDER

It has come to the attention of the Justices that preferential treatment allegedly afforded to certain attorneys by some justices of the Boston Municipal Court Department of the Trial Court (Boston Municipal Court) is a matter of concern to the public and to all members of the judicial branch. The Chief Justice and the Justices of this Court, concerned not only with the proper and efficient conduct of judicial affairs, but also with the public's perception of the integrity of the judicial process, have determined that a prompt, full inquiry into the practices and procedures of the Boston Municipal Court Department as they relate to these allegations should be undertaken immediately. Now therefore, pursuant to the constitutional and statutory powers of general superintendence of the Justices of this Court,

IT IS ORDERED that:

I. (a) Paul R. Sugarman, Esquire of Boston be, and hereby is, appointed Special Master and Commissioner to conduct a prompt and thorough administrative inquiry into alleged improprieties with respect to preferential treatment of attorneys by certain Justices of the Boston Municipal Court and to file with this



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Court, within ninety days of this date, or as soon as possible, a report of his findings, conclusions, and recommendations.

(b) the Special Master and Commissioner shall also make such recommendations as he may deem appropriate to the Supreme Judicial Court with respect to indications or findings of misconduct, if any, on the part of any Justice, officer or employee of the Boston Municipal Court; and

(c) the Special Master and Commissioner shall have, in addition to the usual powers of a Special Master and Commissioner, the power to subpoena witnesses and to administer oaths.

Paul J. Leacos

Herbert P. Wilkins

Ruth J. Abrams

Joseph M. Nolan

Neil J. [unclear]

Francis P. Connor

John M. G. [unclear]

October 3, 1990

David Pfeiffer
Professor of Public Management
School of Management
Suffolk University
Boston, MA 02108

(617) 573-8316
Bitnet:
Pfeiffer@Suffolk
FAX:
(617) 573-8704

Education

Ph.D., The University of Rochester, political science (the application of decision theory to local government policy), 1975, doctoral dissertation: Coalition Formation and the Policy Making Process.

M.A., The University of Texas at Austin, government (the process of policy formation), 1963, master's thesis: The Mexican Farm Labor Supply Program - Its Friends and Foes.

M.Div., The Episcopal Theological Seminary of the Southwest, theology and church history, 1960.

B.A., The University of Texas at Austin, philosophy, 1956.

Experience

Department of Public Management, School of Management, Suffolk University, Professor, 1981 to the present, Associate Professor, 1975-81, Department Chairperson, 1978-82 and 1990 to the present.

Massachusetts State Director for the White House Conference on Handicapped Individuals, 1977-80.

Assistant Director of the Center for Public Management, Suffolk University, 1974-75.

Assistant Professor of Political Science, Northeastern University, 1970-74.

Lecturer at the Colgate-Rochester Divinity School, Rochester, New York, 1969-70.

Instructor in Political Science, University of Rochester, 1968-70.

Experience prior to 1968 includes six years of college teaching, five years of experience in the public sector, and one year in the private sector.

Teaching experience since 1968 also includes visiting lecturer at the Harvard School of Public Health, in the Urban Affairs Program of Boston University, at the University of Massachusetts at Boston, in the Management Science Training Institute of the US Civil Service Commission, and in the Massachusetts Higher Education in the Prisons Program.

Summary of Work Experience

At present I am teaching policy analysis courses in the Masters in Public Administration program specializing in the area of Disability Studies. Over the last dozen years I had the unique experience of participating in the development of the field of Disability Studies and now I am able to concentrate my teaching, research, publication, and public service in this area of specialization.

From 1978 to 1982 I served as Chair of the Department of Public Management. My duties as Chair included administering a five person department with a dozen adjunct faculty and supervising from two to six student assistants. They also included the responsibility for curriculum, personnel, and budgetary decisions for the MPA program. As Chair I successfully led the Department to accreditation by the National Association of Schools of Public Affairs and Administration. In addition I played a major role in creating a joint MPA/JD program with the Suffolk Law School, in starting an Executive MPA program for experienced practitioners, and in developing a Health Administration concentration within the MPA. After leaving the position of Chair in 1982 I created a Certificate of Advanced Study in Public Administration and helped develop joint programs with undergraduate departments in the College of Liberal Arts and Sciences. Today I continue developing programs and have proposed an undergraduate Health Administration major, a Health Administration concentration in the MBA program, a Ph.D. in Administration, and a diploma program in public management. In September of 1990 I resumed the position of Chair.

From 1977-80, while teaching full time, I served as the Massachusetts State Director for the White House Conference on Handicapped Individuals. During these years, as State Director, I was responsible for a number of things including producing and publicizing a plan for the implementation of the White House Conference recommendations as they apply to Massachusetts. As Chair of the National Implementation Advisory Committee for the White House Conference, I was active on the national level in publicizing and implementing these recommendations. In Massachusetts I was instrumental in having the state Office of Handicapped Affairs created, in establishing the Massachusetts Coalition of Citizens with Disabilities, in amending the state constitution (Constitutional Amendment Article 114) to prohibit discrimination based upon the existence of a handicap, and in the promulgation of Executive Order 246 establishing the governmental machinery to implement Article 114 and complementary statutes.

In addition, from 1975 to 1983 I served on the Massachusetts Developmental Disabilities Council chairing its equal rights committee almost continually. In this capacity I was responsible for channeling some \$2 million into the Disability Rights Movement. Finally, I have twenty eight years of teaching experience at various colleges and universities, ten years of administrative experience in different capacities, five years of service on a local government regulatory board including the last two years as chairperson of it,

and over a decade of service on a number of advisory committees to public and nonprofit agencies.

Publications Research in progress is not listed and only refereed journal articles and other publications of note are included.

Disability Studies - Refereed Articles

"A Review of the MBTA Call-a-Lift Bus Program," Transportation Quarterly, forthcoming.

"Public Transit Access for Disabled Persons in the United States," Disability, Handicap, & Society, 5 (1990), pages 153-66.

"Implementation Planning for a Neuro-Behavioral Unit in a Public Health Hospital," Journal of Health and Human Resource Administration, forthcoming; co-author: Leslie S. Cavicchi.

"Disability Simulation Using a Wheelchair Exercise," Journal of Post-Secondary Education and Disability, 7(2), Spring 1989, pages 53-60.

"Massachusetts Executive Order 246: Nondiscrimination on the Basis of a Handicapping Condition," Mental and Physical Disability Law Reporter, 12 (1988), page 308.

"The Impact of the Federal Prospective Payment System Upon Long Term Care Related Medicare Patients," Journal of Health and Human Resources Administration, 10 (1987), pages 115-46; co-author: Pamela Christian.

"Self-Advocacy," AHSSPPE Bulletin, 3 (1985), pages 115-28.

"The Emergence of Disability Studies," The AHSSPPE Bulletin, 1 (1983), pages 116-22; co-author Alexa Novak-Krajewski.

"Government Policy Toward Handicapped Individuals," Policy Studies Journal, 6 (1977), pages 93-101; co-author: Michael Giampietro.

Disability Studies - Refereed Proceedings

"The Americans with Disabilities Act: Policy and the Political Process," Proceedings of the 1990 Meeting of the Society for Disability Studies, forthcoming.

"Employment, Income, and Disability," Proceedings of the 1990 Meeting of the Society for Disability Studies, forthcoming.

"Conflict or Correspondence: Do We Know What Is Happening in Massachusetts?" Proceedings of the 1990 Meeting of the Society for Disability Studies, forthcoming.

"An Evaluation of the Prospective Payment System for Medicare Patients," Emerging Issues in Impairment and Disability Studies edited by Gary Kiger and Stephen Hey (Salem, Oregon: The Society for Disability Studies and Willamette University, 1989), pages 95-101; co-author: Pamela Christian.

"Accessible Transportation: Political Action and Public Policy," Proceedings of the 1989 Meeting of the Society for Disability Studies, forthcoming.

"Disabled People, Local Government, and Affirmative Action," Proceedings of the 1988 Meeting of the Society for Disability Studies, forthcoming.

"Student Reaction to Wheelchair Use," Proceedings of the 1988 Meeting of the Society for Disability Studies, forthcoming.

"Attitudes, Disabled People, and the Law," The Changing World of Impaired and Disabled People edited by Stephen C. Hey, Gary Kiger, and Daryl Evans (Salem, Oregon: The Society for Disability Studies and Willamette University, 1989), pages 5-17.

"Transition Strategies," Proceedings of the 1986 AHSSPPE Conference, pages 117-26; co-authors: Veronica Porter and Janet Anderson.

"The Number of Disabled Persons in the U.S. and Its Policy Implications," Proceedings of the 1985 AHSSPPE Conference, pages 54-57.

"Affirmative Action and the Unemployment of Disabled Persons," Proceedings of the 1985 AHSSPPE Conference, pages 254-56.

"Civil Rights with Clout: The Disabled Citizen in Massachusetts," Impaired and Disabled People in Society: Structure, Processes and the Individual edited by Stephen Hey, Gary Kiger, and John Seidel (Salem, Oregon: The Society for Disability Studies and Willamette University, 1987), pages 262-73.

"Affirmative Action and the Marketing of Disabled Persons," Impaired and Disabled People in Society: Structure, Processes and the Individual edited by Stephen Hey, Gary Kiger, and John Seidel (Salem, Oregon: The Society for Disability Studies and Willamette University, 1987), pages 5-8; co-author: Wandwossen Kassaye.

"Is There a Culture of Disability?" Proceedings of the 1984 AHSSPPE Conference, pages 130-32.

Disability Studies - Annotated Bibliographies

"An Annotated Bibliography on the Media and Disability," Disability Studies Quarterly, Fall 1990, 10(4), pages 35-38.

"An Annotated Bibliography on Disability and Demography," Disability Studies Quarterly, Summer 1990, 10(3), pages 35-39.

"An Annotated Bibliography: Comparative and Cross Cultural Studies of Disabilities," Disability Studies Quarterly, 10(2), Spring 1990, pages 33-36.

"An Annotated Bibliography of Scholarly and Professional Periodicals in the Field of Disability Studies," Disability Studies Quarterly, 7 (Fall 1987), pages 26-32.

Disability Studies - Other Publications

"[Review of] Lu Ann Aday, Designing and Conducting Health Surveys," Disability Studies Quarterly, Summer 1990, 10(3), page 10.

"Just How Many Disabled Persons Are There in the United States?" AADC News, Winter 1989, pages 1 and 6.

"Report on Services Provided to Disabled Students at Massachusetts Public Colleges and Universities," Board of Regents of

Higher Education, Taskforce on Disabled Students Services, September 1989; co-author: Andrea Schein.

"Reflections on Doris Kearns Goodwin's The Fitzgeralds and the Kennedys," Disability Studies Quarterly, Spring 1989, pages 43-47.

"A Tale of Two Book Covers," Disability Studies Quarterly, Spring 1989, pages 50-51; reprinted in MD News, May 31, 1989, page 2.

"Characteristics of Adult Disabled Persons in the Commonwealth of Massachusetts," April 1989; Massachusetts Office of Handicapped Affairs and Massachusetts Developmental Disabilities Council; co-author: Judith Poole.

"Disability Issues," Handbook for Massachusetts Selectmen edited by Jane Seagrave and Donald Levitan (Second edition; Boston: Massachusetts Municipal Association, 1988), page 73.

"Divisions in the Disability Community," Disability Studies Quarterly, Spring 1988, pages 1-3.

"Tax Deductions for Providing Access to Disabled People," National Civic Review, 77 (1988), page 71.

"Disability Studies as a Field," Disability Studies Quarterly, 7 (Fall 1987), pages 1-3; co-author: Andrea Schein.

"Accommodating the Disabled," National Civic Review, 76 (1987), pages 167-68.

"Laws Unclear on Attorney Fees," National Civic Review, January-February 1986, page 48.

"Teaching About Disability - II," Disability Studies Quarterly, Fall 1985, pages 23-24.

Testimony Before the Subcommittee on Employment Opportunities of the Committee on Education and Labor, U.S. House of Representatives, on H.R. 370 to Amend Title VII of the Civil Rights Act of 1964 to Make Discrimination Against Handicapped Individuals an Unlawful Practice, Washington, D.C., June 6, 1985.

"Teaching About Disability - I" Disability and Chronic Disease Quarterly, January 1985, pages 23-24.

An Overview of EO 246 (Boston: Suffolk University, 1984).

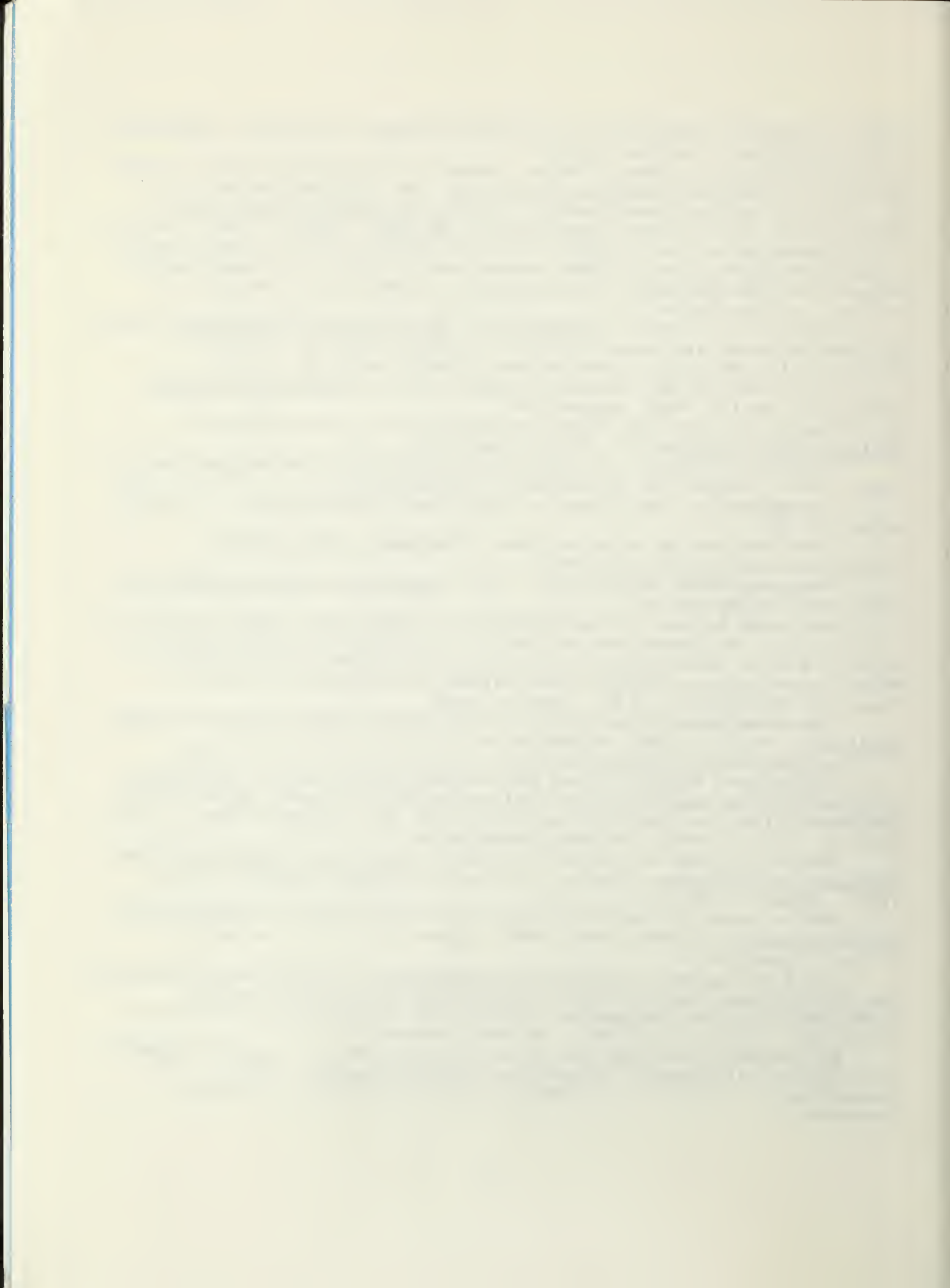
"Government Policy Toward Handicapped Individuals," Strategic Perspectives on Social Policy (edited by John Tropman, Milan Dluhy, and Roger Lind; revised edition; Elmsford, NY: Pergamon Press, 1981), chapter 21; co-author: Michael Giampietro.

"Meaningful Citizen Participation," Vocational Rehabilitation: Consumers as Citizens (Boston: Tufts-New England Medical Center, 1978), pages 73-81.

"White House Conference State Activities Update," Programs for the Handicapped, Number Four, 1978, pages 10-11, 20; co-author: Michael Giampietro.

The Time Is Now - A Plan for Implementing the Recommendations of the White House Conference on Handicapped Individuals in the Commonwealth of Massachusetts (Boston: The Massachusetts Office of the WHCHI, 1978); co-author: Michael Giampietro.

Recommendations from the White House Conference on Handicapped Individuals with Special Attention to Massachusetts (Boston: The Massachusetts Office of the WHCHI, 1977); co-author: Michael Giampietro.



The Massachusetts Conference on Handicapped Individuals - A Report to Governor Michael Dukakis (Boston: The Massachusetts Office of the WHCHI, 1977); co-author: Michael Giampietro.

An Analysis of the Federal Regulations Implementing Section 504 of the Rehabilitation Act of 1973 (Boston: Massachusetts Rehabilitation Commission, 1977).

Barriers - A Discussion Paper (Boston: The Center for Public Management, 1976).

Other Policy Areas - Refereed Journal Articles

"The Legal Feasibility of an Auto Free Zone in a Metropolitan Area," International Journal of Public Administration, forthcoming.

"Evaluation of Xylan Fermentation for Identification of *Bacteroides ovatus* and *Bacteroides thetaiotaomicron*," Journal of Clinical Microbiology, 22 (1985), pages 125-26; co-authors: Susan W. Cooper and Francis P. Tally.

"Public Attitudes Toward an Auto-Free Zone in a Metropolitan Area - Boston," International Journal of Public Administration, 7 (1985), pages 51-66.

"Insulation by Administration: The Neutralizing of Competing Interests in a Rent Control Program," International Journal of Public Administration, 5 (1983), pages 57-87.

"An Extension of the Linked Indices for Assessing Relevance Model," Public Administration Review, 33 (1973), pages 462-64.

"Education and the Voting Turnout of Blacks in the 1968 Presidential Election," Journal of Politics, 35 (1973), pages 995-1001; co-author: Michael Coveyou.

"The Measurement of Inter-Party Competition and Systemic Stability," American Political Science Review, 66 (1967), pages 457-67.

Other Policy Areas - Refereed Proceedings

"The Fright Free Teaching of Statistics and Other Fearful Courses," The Proceedings of the Sixth National Conference on Teaching Public Administration, 1983, pages 184-91; co-author Michael Halperin.

"Comments on 'The Construction of a State Consumer Confidence Index' by Booth and Della Bitta," Proceedings: New England Business and Economic Development Conference, 1977, page 78.

Other Policy Areas - Annotated Bibliographies

"Annotated Bibliography on Codes of Professional Conduct," International Journal of Public Administration, 14 (1991), pages 99-124; co-authors Donald Levitan and Michael Lavin.

Other Policy Areas - Other Publications

An Analysis of Metro-Apex (Weston: The New England Consortium for Environmental Protection, 1975); co-authors: Theodore H. Rider and John D. Spengler.

The Framingham Education Survey, 1974 (Framingham: Framingham Education Survey Committee, 1974); co-author: FESC.

Automobile Crashworthiness (Cambridge: Transportation Systems Center, 1974); co-author: Susan Richardson.

Analysis of the 'Four Company Study' Data (Cambridge: Transportation Systems Center, 1974); co-author: Susan Richardson.

The Impacts of an Auto Free Zone on an Urban Metropolitan Area: Methodology and Case Study, UMTA technical report, 1974; co-author: The Transportation Planning Group at Northeastern University.

Professional Activities

At present most of my professional activities consist of serving on public sector advisory boards and committees, speaking at various state, regional, and national meetings of professional and other associations on policy topics including disability issues, and acting as an advisor (unpaid) to the staff of numerous public agencies and to public officials.

1. Present Activities

Member, Advisory Committee, Massachusetts Assistive Technology Program, 1990 to the present.

Member, Advisory Committee of the Disability Curricula Project of the Institute for Rehabilitation and Disability Management, Washington Business Group on Health, 1990 to the present.

Member, Advisory Board of the Policy Studies Organization Series of the Macmillan Press, June 1990 to the present.

Member, Board of Directors, Society for Disability Studies, June 1990 to the present.

Program Chair, 1991 meeting of the Society for Disability Studies.

Member, Task Force on Disabled Student Services, Massachusetts Board of Regents of Higher Education, December 1987 to the present.

Member, Governor's Advisory Council on Affirmative Action, June 1987 to the present.

Member, Advisory Board for the Project on Women and Disability, January 1987 to the present.

Member, Advisory Committee on Disability Issues of the State Office of Affirmative Action, June 1986 to the present.

Member, Massachusetts Advisory Council on Disability, 1982 to the present, Chairperson 1984-89 [formerly the Massachusetts Advisory Council on Handicapped Affairs].

Member, Board of Directors, Adaptive Environments Center, Inc., 1982 to the present, Chairperson, 1982-83.

Member, Disability Law Center Advisory Board, 1978 to the present [formerly the Developmental Disabilities Law Center].

2. Selected Past Activities

Member, Medical Resolutions Committee of the Massachusetts Registry of Motor Vehicles, 1988-90.

Member, Board of Directors, Massachusetts Human Services Coalition, 1983-88.

Co-editor of the Fall 1987 issue of Disability Studies Quarterly.

Member, Disability Awareness Task Force of the Boston Public School System, 1986-87.

Member, Board of Directors, Boston Center for Independent Living, 1985-86.

Member, Massachusetts Developmental Disabilities Council, 1975-83 serving on various committees and chairing the 504 Implementation Committee, 1978-79, the Equal Rights Committee, 1980-83, and the Non-Vocational Social Developmental Committee, 1983.

Member, Board of Directors of the Boston Self Help Center, 1977-81.

Chairperson, Massachusetts Coalition of Citizens with Disabilities, November 1978 to June 1979.

Delegate to the White House Conference on Handicapped Individuals, May 1977, and to the Massachusetts Conference on Handicapped Individuals, December 1976.

Member, Brookline Rent Control Board, 1972-77, and Chairperson, 1975-77.

Grants

Massachusetts Office of Handicapped Affairs, 1988.

School of Management, Suffolk University, 1985, 1987-90.

Massachusetts Department of Mental Health, 1978.

Massachusetts Department of Elder Affairs, 1978.

Massachusetts Department of Public Health, 1978.

Massachusetts Rehabilitation Commission, 1977.

Massachusetts Commission for the Blind, 1977-78.

Massachusetts Developmental Disabilities Council, 1977, 1988.

U.S. Department of Health, Education, and Welfare under P.L. 93-516, 1977 (grant manager).

New England Consortium for Environmental Protection, 1974.

U.S. Department of Transportation, Urban Mass Transportation Administration, 1973-74 (participant).

Esso Foundation, 1971.

National Defense Education Act Fellowship, 1969-70.

National Science Foundation Traineeship, 1968-69.

New York State Office of Foreign Area Studies and U.S. Department of Health, Education, and Welfare, 1966.

New York State Office of Foreign Area Studies and Ford Foundation, 1965-66.

National Science Foundation, 1965.

Honors

Pi Alpha Alpha.

Pi Sigma Alpha.

Pi Gamma Mu.

Listed in American Men and Women of Science: The Social and Behavioral Sciences.

Whitney-Carnegie Award, American Library Association, 1990.

Outstanding Faculty Member of the Year, Evening Division Student Association, Suffolk University, 1988.

Certificates of Appreciation, Massachusetts Association of Paraplegics, 1977 and 1978.

Date and Place of Birth: May 13, 1934, Dallas, Texas

December 1990



OFFICE OF THE COMMISSIONER OF PROBATION

1 ASHBURTON PLACE / RM 405 / BOSTON, MA 02128

JOS DUIL Dispositions - 1988

Disposition		Guilty	Cont	Total Convicted	Not Guilty	N P	Dismissals
Statewide '88	(N= 5,896)	35.5	44.0	79.5	12.3	1.4	6.9
BMC	(N= 863)	11.0	58.2	69.2	18.2	--	12.6
Barnstable	(N= 192)	14.1	47.9	62.0	6.8	3.6	27.6
Cambridge	(N= 389)	16.7	69.9	86.6	7.9	0.5	4.9
Dedham	(N= 667)	81.6	1.9	83.5	8.1	--	8.4
Edgartown	(N= 2)	100.0	--	100.0	--	--	--
Fall River	(N= 318)	18.9	65.4	84.3	5.0	5.3	5.3
Fitchburg	(N= 231)	22.9	59.3	82.2	12.6	--	5.2
Framingham	(N= 314)	71.0	3.8	74.8	11.8	0.3	13.1
Greenfield	(N= 79)	77.2	8.9	86.1	8.9	3.7	1.3
Haverhill	(N= 255)	38.8	51.8	90.6	6.3	--	3.1
Hingham	(N= 165)	47.9	32.7	80.6	10.3	--	9.1
Lowell	(N= 290)	43.1	36.9	80.0	13.1	1.0	5.9
Nantucket	(N= 10)	30.0	20.0	50.0	10.0	40.0	--
Northampton	(N= 153)	16.9	60.8	77.7	15.0	3.3	3.9
Peabody	(N= 248)	56.0	8.5	64.5	23.4	10.5	1.6
Pittsfield	(N= 212)	11.3	79.7	91.0	5.7	--	3.3
Salem	(N= 312)	17.6	68.3	85.9	11.9	2.2	--
Springfield	(N= 374)	17.9	72.7	90.6	6.2	1.9	1.3
Wareham	(N= 229)	35.4	34.5	69.9	21.4	--	8.7
Worcester	(N= 593)	44.9	34.9	79.8	17.0	--	3.2

TRANSCRIPT

COMMONWEALTH V. BRIAN MCDONOUGH
BMC Docket No. 89-5548-9

November 29, 1989
Tape No. 1071

Key

JH - Judge Walter Hurley
P - Police Officer
C - Assistant Clerk
BM - Brian McDonough; Defendant
U - Unidentified Person

The case was called at the beginning of the tape and Judge Hurley was informed that Attorney Flaherty was making a telephone call. The case was passed over; other matters were heard and then the following occurred:

Footage 371-415

JH: Alright, Where's Brian McDonough?

C: Brian McDonough, Attorney Flaherty?

U: He was here, your Honor.

JH: Where's Brian McDonough? Have you seen him officer?

P: He was just sitting in the back of the courtroom, your Honor.

JH: Somebody open the door and yell for Brian McDonough.

U: Brian McDonough.

BM: Right here, your Honor. My attorney just stepped out for a second.

JH: Step up here. Where did your attorney go?

BM: Men's room, I guess. I don't know.

JH: You don't have any idea?

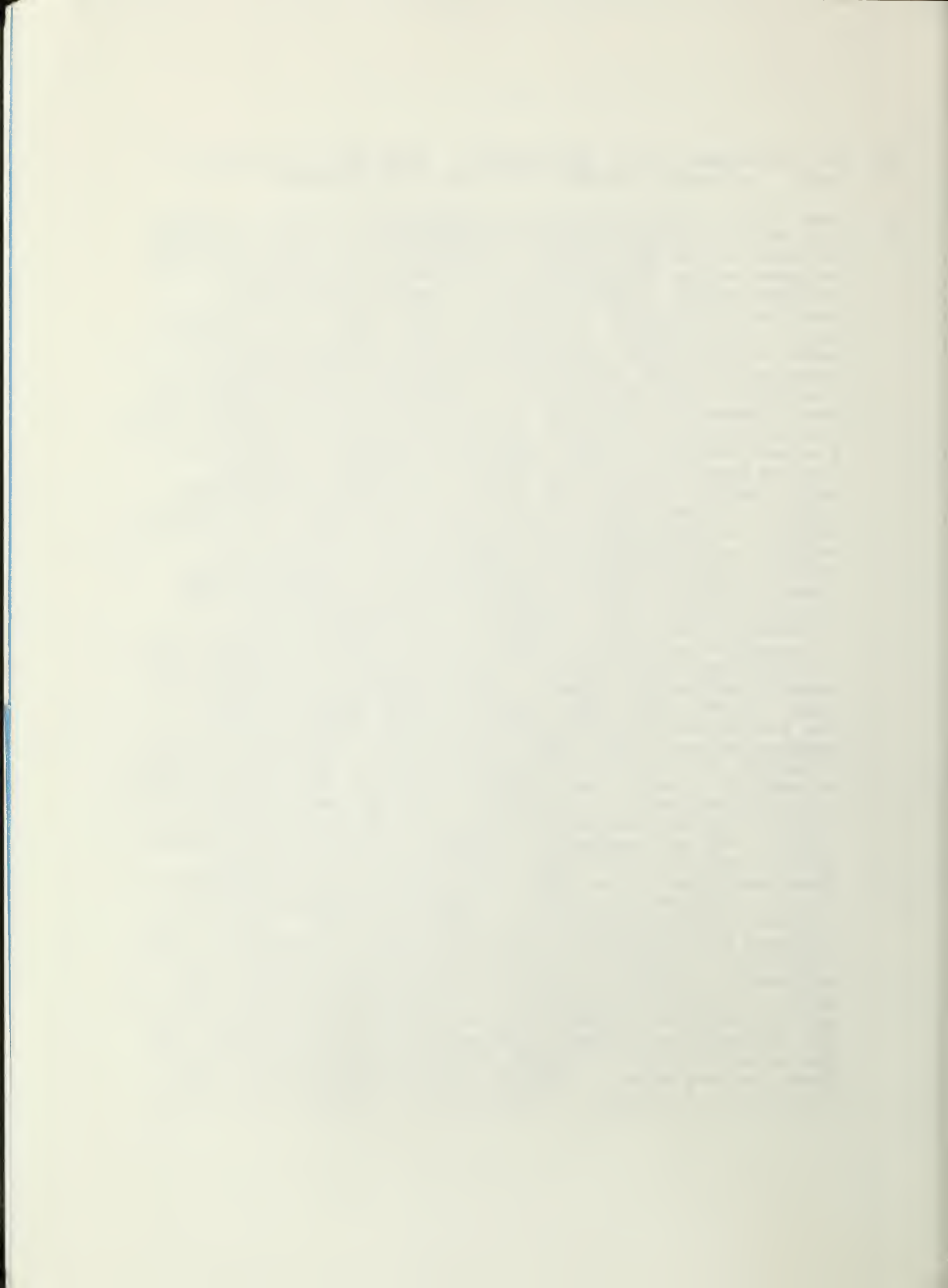
BM: He just stepped out.

JH: Alright, officer take the stand and be sworn.

C: Raise your right hand officer. Do you solemnly swear that the testimony your about to give this court will be the whole truth and nothing but the truth so help you god?

JH: Mr. McDonough, don't go anywhere. Stay here. No stay up here. Go ahead, officer. Tell us what happened.

P: Your Honor, on 08/10/89 at approximately 2:10 a.m., myself and other officers from Area C responded to a motor vehicle accident at 53 Adams street in Dorchester. The information we received was of a motor vehicle was flipped over at this accident scene. Upon arrival, I observed three motor vehicles involved in an accident, your Honor. I observed the Number 1 vehicle, a 1981 Plymouth, color blue, station wagon bearing Mass. registration 687RKF flipped over in a reverse direction from where it was parked, your Honor, unoccupied, on its side on the sidewalk. This vehicle had heavy damage to it on the left side of the motor vehicle. The vehicle was dragged or pushed approximately 20 feet into a second vehicle, a 1981 Oldsmobile Cutlass, color blue, bearing Mass. Reg. 720HWA which was dragged or pushed approximately 35 more feet after that into a third motor vehicle, a 1989 Toyota, color red, bearing New York, Reg. IAU861 which sustained minor damage, your Honor. The second vehicle was totalled also, along with the first motor vehicle. The information received from a witness at the scene provided us with a registration to a Boston Edison Company truck, a 1988 commercial registration, 88 818046. It struck these motor vehicles; it stopped at the intersection of East and Adams Street after the accident for a short time, and then left the scene down East Street and towards Dorchester Avenue. While standing in the middle of Adams Street, with other officers, your Honor, we observed the Boston Edison truck coming up Adams Street towards Bowdoin Street. This Edison truck came to the scene of the accident. We observed the plate number to the truck, and as we started to walk down towards the truck, as being the same vehicle involved in the accident with the same registration, the operator of that truck went up Fox Street from Adams Street. He was pursued and stopped at Mt. Ida by a marked police vehicle and had the truck returned to the scene. Upon returning to the scene, the operator, Mr. McDonough, I had conversation with him. I asked Mr. McDonough for his license and registration. Mr. McDonough said, "Why?" I informed him that he had had an accident and pointed to the area of the accident. He said to me that he did not have an accident. I asked him for his license and registration again. He did not produce it. I asked him to step from the truck. When he stepped from the truck, I observed that he was unsteady on his feet, that his eyes were bloodshot and his speech slurred. I asked him to walk up the street to a flat distance area to perform a field sobriety test. He walked up the street. I explained to him what I was going



to do. He refused to take the test. I observed him walking up the street on his own power; he was unsteady on his feet to this location. I informed him that if he didn't take the test, he would be placed under arrest for operating under the influence. If he passed the test, he would be let free to go. He declined to take the test, he was placed under arrest, and he was transported to Area C and informed of his rights. He was offered the breathalyzer at Area C. He refused the breathalyzer at Area C. The damages to the motor vehicles, your Honor, were two of the motor vehicles were totally damaged by this truck. One of the vehicles sustained minor damage. The accident was caused by the Edison truck, caused the ladder that was on the side of the truck to go across the street and travel into the yard of 50. These are the pictures we had taken of the accident scene and the pictures of the cars.

JH: Oh, great.

P: That's the second motor vehicle, your Honor. And that's the first one. No, the first one will come up, no that's still the second one, your Honor. That's still the second one. That's the third motor vehicle that sustained minor damages. The damage was all done by this leg or this arm to the Edison truck.

JH: You want me to throw the book at him?

P: [Inaudible response]...This is a picture of the station wagon. This station wagon was parked in a northbound direction. When the truck hit it, it hit the side, ripping it, flipped it around 180, put it on its side, on the sidewalk.

JH: Who took these? Edison?

P: Edison took the pictures. Edison, from my information has made good to the people from the accident.

JH: Alright. Mr. McDonough, what do you say for yourself?

BM: I'd like to wait for my counsel.

JH: Well, I don't think were going to wait for him.

U: Your Honor, just...it's a minor thing. The Count B says Dan Donovan, it should say Michael Souza but just for the record, it was agreed.

JH: Why did you leave the scene of the accident?

BM: I was trying to get my bearings, and I was trying to see if I could find the other vehicle that had come out of Roxbury. I was trying to get a description of that car.

JH: How far were you from the accident at all these times.

BM: Within two blocks, your Honor. I grew up in the area.

JH: Alright. Not guilty on leaving the scene. On the OUI; continue without a finding for one year. ASAP program, 45 day loss of license.

C: Mr. McDonough, on Complaint 89-5548, the court finds facts sufficient for a finding of guilty; continue the matter without a finding under 24D disposition to November 27, 1990. Not guilty on leaving the scene.

JH: Alright, the program and 45 day loss of license. Do you have your license with you?

C: Steven Carroll.

TRANSCRIPT

COMMONWEALTH V. GEORGE V. KENNEALLY, III

BMC Docket No. 87-6907

February 16, 1988

Tape No. 7155

Key

JP = Judge John A. Pino

GK = Attorney George V. Kenneally, Jr., Counsel for defendant

C = Assistant Clerk

U = Unidentified Person

Footage 327-333

C: George Kenneally.

GK: Good morning, your Honor.

JP: This is on for appearance of counsel, I believe...or is it, oh no. You were in the hospital, how are you doing?

GK: I just got out.

JP: When are you going to be ready to go to work?

GK: [Inaudible]

JP: Ready to go to work...

TAPE CLICKS OFF/ON.

C: Yes, your Honor.

JP: I'm going to put this over two weeks from today for status. I want the police officers here. Make a note, police to be summonsed.

GK: That'll be the first of March?

JP: Is that the date...two weeks?

GK: Two weeks is the first of March.

JP: Yeah, I think you're right.

GK: Two weeks is the first of March.

C: The matter will be continued until the first of March for status. Officers to be summonsed.

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JP: When are you going to be ready to go to work?

GK: [Inaudible]

JP: Ready to go to work...

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U: What about this?

JP: Let's see if they show up.

GK: Thank you very much, your Honor.

GK: [Inaudible]

JP: I have no complaints. This is my only complaint, when four o'clock comes all my troubles are over.

GK: [Inaudible]

JP: ...That's easy, that's easy, I wish I could get them to do what they're told. Alright George, take care of yourself, please.

TRANSCRIPT

COMMONWEALTH V. GEORGE KENNEALLY, III
BMC Docket No. 87-6907

March 1, 1988
Tape No. 7226

Key

RC = Rosemarie Carr, Clerk

MO = Mary Orfanello, Assistant District Attorney

JP = Judge John Pino

RC: George Kenneally, III
Police Officer to be summonsed in, your Honor.

MO: Yes, your Honor. And I notified the MDC Police Officer White, and I received a message this morning that Officer White is in the Academy and will not be here.

JP: Ms. Orfanello, this is the third this matter's been on for trial, and I'm sorry I'm going to dismiss it for want of prosecution.

RC: George Kenneally Complaint No. 876907 will be dismissed for want of prosecution.



TRANSCRIPT

COMMONWEALTH V. ALFRED WEBER
BMC Docket No. 88-3407

December 20, 1988
Tape No. 8546

Key

JP = Judge John Pino

GK = George V. Kenneally, Jr., attorney for defendant

U = Unidentified Persons

C = Unidentified Assistant Clerk

MO= Mary Orfanello, Assistant District Attorney

RC= Rosemarie Carr, Assistant Clerk

Footage 461-468

C: Alfred Weber
This is marked to go back to Judge Bakas.

JP: Tell him; Bring him back and tell him, he's got Mosse in there - tell him to interrupt his trial if he has to to get rid of them. I don't care, I don't care. I sent him down there if he wants them, he'll take it up with me. Don't send them back. I mean he's got the lawyer down there, what does he want me to do. Tell him he either takes the cases or sends Mosse down here and I'll take care of them - that's his choice...What is it with people, they can do one thing at a time and that's all...

GK: I have trouble doing that, your Honor.

U: He doesn't do that well, either.

C: This case on Weber's marked to go to Judge Bakas.

JP: This should...Is this?...

GK: [Inaudible]

JP: I'll hold it try to find him; hold it try to find him.
We're quitting at twelve thirty, quarter of one; otherwise if he says he'll be here tomorrow or the next day...

GK: Mass. General...

JP: I don't care where he is. I don't care where he is but when are you going to get him in here....Tell him he's screwing up the works. I'll hold it. I'll hold it day-to-day if you want. I'll hold it day-to-day, alright? O.K. That's all. Well, have you got all the information you need from the police officers?

MO: [Inaudible]

JP: All right...Tell them we're liable to get rid of it in their absence. O.K.? All right.

C: Second call.

Footage 738-740

JP: Have you conferenced your case with Judge Bakas already?

RC: Mr. Kenneally.

JP: Mr. Kenneally, have you conferenced your case already with Judge Bakas?

GK: No, I have not, your Honor.

JP: Well, I'll keep it here. He's...he's busy.

GK: The doctor is here.

JP: All right. I'll get to him...[inaudible]

Footage 792-800

JP: You have something counselor. Come on up here.
[Inaudible]

JP: Ms. Orfanello, is the officer here?
[Inaudible]

U:hospital...
[Inaudible]

JP: What are you going to do?

JP: He's next, ya. Soon as I ah....
[Inaudible]

JP: Get the officer. I want the officer. I want the officer.

GK: Oh.

MO: He was here a few minutes ago.

JP: Where's the officer on the Weber case?

MO: Sergeant Quirk.

GK: I didn't see him this morning.

MO: He was here this morning.

GK: I know, but I didn't have any conversation.

JP: Would you call Bill Donovan's office to see if Sergeant Quirk is over there...Sergeant Quirk, MDC...

U: He was here. I saw him...

JP: He' not here when I want him.

U: No, he was here earlier.

MO: He was here...[inaudible]....I'm sure he hasn't gone far.

JP: Mary, I'll dismiss it. If he's not here...[inaudible]
[Inaudible]

GK: You'd know him - I wouldn't know the man anyway.
[Inaudible]

JP: You tell this guy he'd better do something.

GK: He is, that's why I got...[inaudible]

JP: Dismiss it...Ah...The cop isn't here...

GK: Thank you very much, your Honor.

RC: Alfred Weber, Counts A & B: Dismissed for want of prosecution.

TRANSCRIPT

COMMONWEALTH V. ALFRED WEBER
BMC Docket No. 25639

May 18, 1990
Tape No. 1986

Key

JP = Judge John Pino

GK = George V. Kenneally, Jr., attorney for defendant

JM = Josephy Murray, Assistant District Attorney

MD = Office Mark DiBona

AW = Alfred Weber, M.D.

C = Clerk

U = Unidentified Person

Footage 88-91

C: Alfred Weber

JP: This case has been on five times.

C: Stand, sir.

JP: Yes, sir. What's your pleasure, counselor?

GK: Can we have a second call on this?

JP: All right. Second call.

GK: Appreciate it.

C: Call this matter again.

Footage 239-300

JP: What are you fellas here on?

JM: We're here on Alfred Weber.

JP: Weber? Number eleven?

JM: Number eleven.

JP: Who's the attorney on that one?

GK: Right here, your Honor.

JP: Do you want to conference the case or do you want a trial?

GK: I think we'll try it.

JP: Alright, then ready for trial; let's go. File the jury waiver, if you will. Counselor, please.

C: The Alfred Weber matter, Alfred Webber matter.

U: He has two matters.

JP: In the box, Mr. Weber.

C: He has two matters, sir.

JP: He has two? May I see them.

[inaudible]

JP: Same offense?

GK: That's right, your Honor.

JP: Why wasn't this one dismissed; it should have been done automatically.

GK: That's correct.

JP: Is there a second offense on his record?

U: Yes.

JP: So 253214 is dismissed; it should be done out of hand.

JM: I think the reason why they do it judge is so it doesn't ...[inaudible]... affect the judge's mind.

JP: What affect the judge's mind? Never effect the judge's mind.

GK: I wouldn't infer that myself, your Honor.

JM: I don't know either.

C: Alfred Weber Number 253214 has been dismissed.

JP: Well maybe you're right. Maybe the clerk should only reveal the first one to me.

JM: [inaudible]

JP: Well when it goes to a jury, you see, the clerks take the second offense and they sanitize it...The jury never sees it and I suppose the judge shouldn't see it either...All right.

JP: Amtrak Police; Little different twist to this one. Swear the witness... got the jury waiver... O.K.

[inaudible]

C: Raise your right hand. Do you solemnly swear the testimony you shall give this court in the case now is hearing shall be the trust and nothing but the truth so help you God...I'll swear him later.

JM: Stipulation as to public way.

JP: Is public way stipulated?

JM: May I proceed your Honor?

JP: Please.

JM: Officer, state your name.

MD: Good morning your Honor. My name is Mark DiBona. I'm a police officer from Amtrak.

JM: Direct your attention to December 17, 1989 at 11:40 in the evening were you on duty for Amtrak?

MD: Yes, I was.

JM: Were you in the area of Atlantic Avenue?

MD: Yes I was.

JM: What observations did you make while on Atlantic Ave?

MD: I was proceeding down the bus ramp at South Station - which is adjacent to Atlantic Ave when a car came down the wrong direction, a blue Firebird, and nearly striking myself and my partner, Officer Lee. At that point, we stopped the vehicle.

JM: And the driver of the vehicle, do you see him in court?

MD: Yes I do. It's that gentleman right across from me.

JM: Did you stop this vehicle?

MD: Yes, I did.

JM: Approach the driver's side?

MD: Yes, I did.

JM: Did you make any observations of the driver?

MD: Yes, I did.

JP: Tell me what happened.

MD: May I refer to my report, your Honor?

JP: Any objection, counselor, to his reading his report?

GK: No I won't your Honor.

JM: We can even stipulate to the police report for this one your honor.

GK: Sure.

MD: Thank you I approached driver side of the vehicle and Mr. Weber rolled down his window. I observed him to have red in his eyes...redness color in his eyes and he stated to me, "Sorry about...sorry about that. I'm confused." At that point, I observed a strong odor of alcoholic-type beverage on his breath.

JP: What happened next?

MD: At that time, I asked him if he was willing to take a field sobriety test in which he stated, "Yes." I then asked him to step out of the vehicle and I asked him if he graduated from high school. He stated "Yes." I then asked him to recite the alphabet. He got as far as the letter "E" and stopped. I then asked him again to recite it and he got as far as the letter "D" and stopped. I again observed a strong odor of an alcoholic-type beverage on his breath. I then asked him to walk ten steps, heel-to-toe. I observed him to be very unsteady on his feet, nearly falling two times.

JP: How did he do on the test, even though he almost fell?

MD: He was very unsteady, your Honor.

JP: Was he able to make the 9 steps up and back?

JM: He did do the test, but like I say, he was very unsteady.

JP: He did pretty good, then.

MD: I then asked him to tilt his head back, extend his arms, close his eyes and touch his nose with his fingers, which he could not perform the test. I asked him to do that two times...perform the test. He could not perform that test.

JP: I always smile at that test. I wonder sometimes if I put my head back and do it, if I can touch my nose. What other test did you do?

MD: At that time, I informed him that he was being placed under arrest for operating under the influence?

JM: Officer, did you ask him for his license and registration?

MD: Yes, I did.

JM: He was able to give you those?

MD: Yes, he did.

JP: Let me ask this. He immediately was aware that he was doing something wrong and he apologized.

MD: That's correct.

JP: And when you asked him to step out of the car, anything you said to him, he understood everything you said?

MD: Yes, he did.

JP: Did answers he made to questions fit the question?

MD: That's correct.

JP: When you ask for his license and registration - did he produce it readily?

MD: Yes.

JP: Did he have any problems finding or picking it up or taking it out of his wallet?

MD: If I remember right, your Honor, he had his wallet in his jacket, and he just opened his wallet.

GK: Pulled it right out.

JP: Anything you want to ask the officer, counselor?

GK: Did you ask him anything like, what he did, or did he tell you who he was or what he did?

MD: The only thing he stated to me was "Sorry about that." I asked him for his driver's license. He did state to me one time tht he was a doctor.

GK: He did tell you that he was a doctor?

MD: Yes, he did.

GK: Did he say you where he worked?

MD: I don't recall.

JP: I'll tell you, Mr. Kenneally. As a doctor, he should know better.

GK: Pardon me. I didn't hear you.

JP: He should know better. He should know better, if he's a doctor. I'm not satisfied with what I've heard.

GK: I'm not arguing with you, your Honor.

JP: I know. I'm not satisfied that he's guilty beyond a reasonable doubt, because even though he didn't do a great job, he did do the nine steps heel-to-toe. I don't know why he didn't keep on going with the alphabet and he was given two cracks at it. I could I suppose I could ascribe that to some sense of nervousness. The nose test is one that I don't...I'm not sure I could do that cold sober. Even though as a matter of criminal law, the government doesn't sustain its burden. I want this man to know that he's a doctor and he should know better. If you want to drive, you don't drink, and if he's got children, I hope he's told them that. That means one drink, Mr. Kenneally and you and I know better, don't we?

GK: I think [inaudible]

JP: And if you're going to have that one drink, you won't have driving with you. Now doctor, I never want to see you in this courtroom again, is that clear?

AW: Yes, your Honor.

JP: You're supposed to be an intelligent, educated man, and you have come in here like the biggest moron that God ever created, particularly in light of the fact that you've been through this before. And you know, the first time, it's shame on you - the second time it's shame on me. You're lucky, and that's the only thing you've got to go for you today. You're lucky. Not guilty.

AW: Thank you your Honor.

C: Alfred Weber, Complaint 256390 Court has found you not guilty ordered you discharged.

JP: Reminds me of a story. My brother was at Boston College; it was a hot Wednesday and he used to ride over to BC in a car with a bunch of kids, and they had a flat going home, and they stopped and fixed the flat. And being young fellas - they were all out of the service - they stopped into the local gin mill. They had a beer - that's all. Who happened to be at the streetcar stop waiting for a bus? My father, an immigrant - breaking his hump to educate his kids. He saw my brother come out and my brother was 22 or 23 years old, he said to him "What are you, some kind of a bum? You want people to respect you and you're going to be a dentist? You think people respect you seeing you come out of a joint like that?" I don't think my brother ever went back again. So that's where I'm coming from, doctor.

AW: Thank you your Honor.

JP: You can tell I'm getting old, I've got all these true stories. [Tape clicks off.]

